

The Telegram

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FRIDAY

NEWS IN BRIEF

LOCAL

Teen murder suspect released to parents

Happy Valley-Goose Bay—A teenager accused of murdering an elderly Labrador man two months ago made bail Thursday and was released into his parents' custody.

The 17-year-old male, whose name is protected by the Young Offenders' Act, is charged with first-degree murder in the death of 69-year-old William Edward Pardy. The victim, was discovered April 29 in his Happy Valley-Goose Bay home, stabbed in the chest.

The teenager is due back in court July 28 at 9:30 a.m., at which time it will be decided if the case will be moved to adult court.

NATIONAL



THE CANADIAN PRESS

One dead in train/truck crash

Melbourne, Ont.—Passenger rail traffic was shut down in the busy London to Windsor, Ont., corridor after a vehicle carrying diesel fuel crashed into a Via passenger train and exploded Thursday. The driver of the truck died.

WORLD

Canada abstains from controversial aid vote

Washington—Canada abstained Thursday from one of the most controversial aid project votes at the World Bank, which conditionally approved a loan to China for the transfer of impoverished farmers into an area historically claimed by Tibetans.

The bank decided to withhold part of the loan while a three-member, independent review panel, headed by a Canadian, considers a challenge to the project by the International Campaign for Tibet.

The \$160-million US loan includes \$40 million to assist 58,000 farmers in the province of Qinghai to move 480 kilometres into an area historically claimed by Tibetans.

WEATHER

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EDUCATION

End of an era

St. Patrick's school ends final year

BY DEANA STOKES SULLIVAN

The Telegram

It was unusually quiet at St. Patrick's school Thursday as students paid a final visit to pick up their report cards and say goodbye to their teachers and school staff.

Unlike most schools, which will open again in September, St. Patrick's is one of 11 under the Avalon East School Board that are officially closing for good this week because of declining enrolment and reorganization.

Located on Patrick Street near downtown St. John's, St. Patrick's has a 143-year history, dating back to its opening on Jan. 10, 1856.

The school was initially housed in a stone building, Convent Square, which today is used as part of the residence of St. Patrick's Convent. The first teachers were Presentation sisters.

Initially the school enrolled students in all levels, but most recently it has accommodated grades 6 to 9.

Although the mood was somewhat sombre Thursday, most students appeared optimistic about moving on to another school this fall.

Vanessa Lee, who will be starting Grade 7 at Holy Cross in September, said she'll miss St. Patrick's a little, but she's looking forward to junior high. "I've only been here a year," she said.

Marina Wickens, who will be attending I.J. Samson this fall, showed more of an attachment to the historic school.

"It's my first year down here. I don't want it to close," she said.

Marina's biggest worry is that I.J. is a big school and she won't know her way around, but she is looking forward to the programming that will be offered in junior high. The only thing she doesn't expect to like are the exams.

St. Patrick's students who have just completed Grade 9 will be moving on to high schools in the centre of the city.

Bobby Leonard is one of those students who will be attending Holy Heart in September.

"I think I'm going to miss St. Patrick's," he said. "I'm going to a bigger school from a smaller school."

See SCHOOL, page 2



JOE GIBBONS/TELEGRAM

Amanda Best, 11, and Marina Wickens, 11, both in Grade 6, look a little sad as they close the gates on St. Patrick's on the last day of school just after getting their report cards.

COURT

Judge only

Request for jury in civil suit denied

BY BONNIE BELEC

The Telegram

Caroline Brushett wanted to tell 12 people how she received a punctured bowel during a routine tubal ligation and ask them to decide if the doctor who operated on her was responsible for the injury.

However, she and her lawyer Chesley Crosbie were informed this week her civil case against Dr. Sankar Vaidyanathan, who performed the surgery, will not be heard by a jury.

Decision 'restrictive'

Newfoundland Supreme Court Justice David Orsborn filed his decision denying Crosbie's application for the case to be heard by a judge and jury.

"It's very restrictive," Crosbie said of the decision.

"(The judge) basically said you are not going to get a jury unless you can persuade the court there are special circumstances why the matter ought to be judged by the ordinary person as opposed to a professional judge," he said, noting there hasn't been a jury civil trial here in about 10 years.

Orsborn stated in his 54-page decision the onus is on the person applying for a jury to satisfy the judge that the case is of such an exceptional nature that it would be better heard by a jury than by a judge sitting alone.

"Although there will be conflicting medical evidence on causation and the appropriate standard of care, the case is not particularly complicated," Orsborn wrote.

"The case is not exceptional — there are no special circumstances that would warrant my exercising the court's discretion to depart from the normal manner of proceeding and order a jury trial."

He stated that when he asked Crosbie why it would be better to have the matter heard by a jury, Crosbie replied that his client wanted to be tried by a jury of her peers since she had a "mis-trust of elites."

See SUIT, page 2

COURT

Jury selection begins in Tran trial

BY GREG JOYCE

The Canadian Press—Vancouver

Jury selection began Thursday for the man accused of first-degree murder in the death of youngster Mindy Tran almost five years ago.

Shannon Leonard Murrin, 48, originally from Newfoundland, pleaded not guilty as he stood in front of a panel of 179 potential jurors, from which 12 were to be selected.

The panel was told the trial will start July 26 and is expected to run six months, wrapping up at the end of January.

Some gasps could be heard in the courtroom when Justice Alexander Henderson of the B.C. Supreme Court said it could go longer.

The tedious process of selecting the jury began after Henderson addressed the panel. They were questioned about whether they could be impartial in the matter.

As the lengthy process unfolded in a large courtroom in the city's Law Courts, Murrin listened and watched attentively, flanked by two deputy sheriffs. Four other deputies assisted the panel selection process.

See PSYCHIC, page 2

BUSINESS/TECHNOLOGY

Newfoundland's Tarzan

Unexpected St. John's connection helps build computer game software company

BY CHRIS FLANAGAN

Business Editor

When Andrew Ayre needed programming help for his computer game design company, he didn't put an ad in the paper, he went looking on the Internet.

Ayre, a native of St. John's and graduate of Harvard University who ended up working in California, was looking for a specific programmer, one experienced in emulation technology on a particular piece of hardware who could complete a project for Digital Eclipse Software Inc., a company Ayre founded with three others in 1992.

From his office in San Francisco, Ayre searched a few technical Web sites and found Jeff Vavasour, a freelance software designer who had just completed a bachelor of science in theoretical physics and was living in Vancouver.

Ayre was impressed with a particular piece of shareware (free) software Vavasour had posted on the Net and immediately called directory assistance in B.C., found Vavasour's number and gave him a call.

Within five minutes, Ayre realized this was the person for the job.

It was only later in the conversation



SUBMITTED PHOTO

Andrew Ayre's Digital Eclipse Software Inc. looks to have a winner in the new Disney's Tarzan Gameboy release.

the two discovered they were both from St. John's.

"I kind of recognized the name, but thought nothing of it," Ayre said from

San Francisco Wednesday.

Five years later, Vavasour is the company's No. 2 man.

See SMALL, page 2

SUMMER MEALS ARE EASY AS...



ALL WHITE MEAT

Inside tomorrow's edition

MATINEE

Will Smith



Will Smith, the multi-media entertainer of the '90s, is profiled in Saturday's Matinee.

Suit filed in 1996

Continued from page 1

"I am not prepared, simply on the basis of that assertion of counsel, to conclude that it is preferable that the matter be tried before a jury," Orsborn concluded.

While Crosbie said he isn't criticizing Orsborn's ruling, he noted it is a precedent-setting decision.

"It has set up a test for obtaining a jury in a civil case which is very restrictive and other judges are likely to follow it," he said.

Crosbie said it's difficult to think of circumstances in which anyone is going to get a civil jury trial in the future other than those unusual cases already described in the legislation such as those involving a breach of promise of marriage.

Meanwhile, Crosbie said the case will probably go to trial in the next six months.

The case against Dr. Vaidyanathan, who was a salaried physician at the Burin Peninsula Health Care Centre, began in 1996, two years after Brushett's operation.

According to her statement of claim, she was referred to Vaidyanathan, a specialist in obstetrics and gynecology, by her family doctor in 1994.

On Feb. 7, 1994 Brushett was admitted to the out-patient department for day surgery. The same day Vaidyanathan performed a laparoscopy tubal ligation on Brushett.

During the procedure, a sharp surgical instrument perforated her bowel in three places. The injury is described as a "shish-kebab" type.

She was released from hospital the same day and readmitted through the emergency department the next day. Another procedure was performed to correct the three perforations of the small bowel and she was released from hospital eight days later.

Brushett claims the doctors negligently failed to disclose the material risks of the procedure to her and that the procedure was so negligently and unskillfully carried out by the doctors

that they caused damage to her small bowel.

Crosbie said there's no dispute his client suffered from a punctured bowel, but the defendant is using the old "things happen" defence. And we're saying, no, this doesn't happen unless you do the operation wrong."

In response to Brushett's claim, Vaidyanathan denies every allegation she has made.

He stated in his statement of defence he obtained a medical history and performed a physical examination on Brushett one week before she was admitted.

And, he stated at that time he discussed permanent forms of sterilization and obtained informed consent to perform the laparoscopic tubal ligation.

Following the procedure on Feb. 7, Vaidyanathan stated Brushett returned to the recovery room in stable condition at which time he visited her and her husband, explained to them the surgical findings, and recommended an ultrasound scan of the pelvis, chest X-ray and CT scan.

He said he next saw her in the emergency department the next day after she had been admitted complaining of increased abdominal pain.

Vaidyanathan stated that upon examination he noted the patient was in distress and her abdomen was tender and rigid. He obtained a surgical consultation.

He said the patient then underwent surgery by another surgeon who performed repairs to her small bowel, an appendectomy and excision of a right ovarian cyst.

Vaidyanathan said he had no further contact with Brushett.

He denies he failed to adhere to proper techniques, that he failed to obtain informed consent and, stated specifically, that informed consent was obtained on Feb. 1 prior to admission.

He further denies his surgical performance caused damage to her small bowel.

A trial date will be set by the court.

Psychic found remains

Continued from page 1

The accused appeared relaxed, dressed in a sweater and casual slacks.

He occasionally stretched and sometimes leaned back in the prisoner's box, spreading his arms along the back of the bench.

Three Crown counsel and two defence lawyers listened and watched each potential juror's responses in the otherwise empty courtroom.

All 12 jurors — plus two alternates — were expected to be empanelled by the end of the day or early today. Defence lawyers and Crown counsel are allowed 20 "challenges" each, meaning they can have the juror excused without stating a reason.

Several potential jurors were ex-

cused by the judge after informing him of various potential hardships, including work commitments, financial strain, frailty and inability to understand English sufficiently.

Tran disappeared in August 1994 while riding her bicycle near her home in Kelowna, about 450 kilometres east of Vancouver.

Two months later, her body was found in a shallow grave in a park not far from her home.

Tran's family grappled with the anguish of not knowing her fate as police had trouble finding the body.

But a man, acting on a psychic's tip, used a divining rod-like device to locate the girl's remains.

Murrin was arrested in January 1997.

SOIREE START-UP



PARTY TIME: Standing at the bow of a mock Viking ship to open the Toronto leg of Soiree '99, the nine-day Newfoundland Festival at the CN Tower, are (from left): Premier Brian Tobin, entertainer Kim Stockwood, Ontario

Minister of Municipal Affairs Steve Gilchrist, and Toronto Mayor Mel Lastman, all under the watchful eye of a Mountie.

School council praised

Continued from page 1

Leonard said he has attended St. Patrick's since Grade 6 and has made a lot of friends there, especially in basketball.

St. Patrick's principal Tom Bartlett credits the school council for helping students focus on the positive and look forward to the future.

"If parents were fighting to keep the school open, it might have a different effect," said Bartlett.

"You could get very emotionally attached to a school and let that interfere with what's really best and they didn't. They are to be commended on that. They had a great deal of common sense and wanted the best for their children."

Bartlett will be principal of the new Holy Cross junior high, where most St. Patrick's students are being transferred.

The new school will have about 430

students and will be able to offer a broad range of programming, said Bartlett.

St. Patrick's had an enrolment of 225 students, and while there are some advantages to having a small school, Bartlett said, a bigger school can avail of more resources to offer better programs.

The Avalon East board is planning renovations to Holy Cross school over the summer, including the addition of two science labs, rooms for home economics and industrial arts and a challenging needs room.

Holy Cross has recently been an elementary school, but for several years it was an intermediate school for grades 5-8.

School council chairwoman Marilyn Best believes the students will be happy at Holy Cross.

Best herself attended St. Patrick's school for grades 3-8 and this year she has served as chairwoman of both St.

Patrick's and Holy Cross school councils.

"I'm sorry to see St. Patrick's closing, but I understand what the school board is trying to do with reorganization," said Best.

The school council knew it was inevitable that the school would be closing, she said, but there were problems earlier this year when the board proposed moving the students to Ecole St. Gerard, a primary French Immersion school.

"When we looked at the school," Best said, "we realized it wasn't suitable for a junior high school, so we worked with the school board on that for another location."

Unfortunately, she said, Holy Cross was picked as the location which was a sad point for students there. "But, basically, we had to work with the school board for both schools and an easy transition for Holy Cross and St. Patrick's," said Best.

Small-world coincidences

Continued from page 1

He's the chief technical officer who assesses all major projects and writes much of the programming, and is an integral part of Digital Eclipse's success. The company just completed designing and building Disney's Tarzan game for Nintendo's Game Boy system, a project that has attracted attention from all over the world and could be the most advanced colour Game Boy product ever built.

"This is potentially the best game ever for Game Boy," Ayre said.

The Tarzan game hit store shelves in California Wednesday and is expected in Newfoundland shortly.

Digital Eclipse's revenues are in the seven-figure range, Ayre said, and it employs 35 to 40 people, including five in Vancouver. It has become one of the top design houses in the world for Game Boy platforms, thanks in large part to an Internet connection made between two transplanted Newfoundlanders.

But there was more small-world weirdness in the Digital Eclipse story. When Ayre received a package of Vavasour's reference material, he recognized the name Clyde Flight, the former vice principal of his old high school Prince of Wales collegiate, who was listed as a reference.

Ayre was a Prince of Wales graduate as well, so he called Flight — at that time principal of the school — who clinched Ayre's decision to offer Vavasour a full-time job.

"(Flight) said 'I remember the good ones and the bad ones,' then he said 'if you're thinking of hiring him, you better do it.'"

The partnership was set. Vavasour then called a lawyer to go over his contract for him, but ran into a temporary road block. The lawyer who ended up with the file was Mark Crosbie, Ayre's cousin. He had to pass the file on to someone else to avoid a conflict of interest.

There's no conflict between Ayre and Vavasour. Ayre handles the business side of things, serving as president of the company and executive producer for all titles under production. Vavasour is the programming wizard, evaluating the technical feasibility of projects, as well as handling resource considerations and quality assurance.

The company has designed and produced big-name games such as Ms. Pacman for Nintendo, Mortal Combat, NFL

Blitz and Rampage World.

But Tarzan is the company's coming-out party. "This is the first Disney title we've done," Ayre said. "The first of many, we hope."

Digital Eclipse developed the game from scratch, Ayre said, devising the form it would take and programming the movements in basic, labour-intensive computer languages.

The company gets digital and print images from the filmmaker, but must adapt them to another format and create thousands of new images — according to strict Disney style guides — to fill in the blanks.

So far Tarzan has impressed the critics, Ayre said, and should lead to several new contracts.

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